
GENERAL LICENSING SUB-COMMITTEE 04-10-2022

Present:

Councillors: Councillor Elfed Williams (Chair)
Councillors Linda Jones and Gwynfor Owen

Officers: Siôn Huws (Senior Solicitor), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Democracy Services Officer)

1. APOLOGIES

None to note

2. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

3. URGENT ITEMS

None to note

4. EXCLUSION OF PRESS AND PUBLIC

It was **RESOLVED** to exclude the press and public from the meeting during the discussion on the following items due to the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12A of the Local Government Act 1972. These paragraphs applied as the individuals in question were entitled to privacy and there was no overriding public interest that required the disclosure of personal information relating to those individuals, or their identities. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

5. APPLICATION FOR A HACKNEY / PRIVATE HIRE DRIVER'S LICENCE – Mr A

The Chair welcomed everyone to the meeting. He explained that the decision would be made in accordance with Gwynedd Council's licensing policy. It was noted that the purpose of the policy was to set guidelines for the criteria when considering the applicant's application, with the aim of protecting the public by ensuring that:

- The person is a fit and proper person
- The person does not pose a threat to the public
- The public are safeguarded from dishonest persons
- Children and young people are protected
- Vulnerable persons are safeguarded
- The public have confidence in using licensed vehicles.

The Licensing Officer presented a written report on an application received from Mr A for a hackney carriage/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the DBS record, the guidelines on criminal offences as well as the Driver and Vehicle Licensing Agency's report and medical certificate. The Licensing Authority recommended that the Sub-committee approved the application.

In response to the licensing officer's presentation, that stated the need for the applicant to expand why he did not acknowledge a drink driving offence on his application form for a licence, the licensing officer highlighted that this sentence in the report was an error and apologised for misleading the sub-committee.

The applicant was invited to expand on the application and provide information about the background of the convictions on his licence and his personal circumstances. He highlighted that they were historical convictions that had occurred during a difficult period in his teens. He highlighted that the last conviction occurred 37 years ago and since this conviction in 1985 that he had followed a career in the field of care for children and adults with learning disabilities.

RESOLVED that the applicant was a fit and proper person to be issued with a hackney/private hire vehicle driver's licence from Gwynedd Council.

In reaching its decision, the Sub-committee considered the following:

- The requirements of 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- The applicant's application form
- The Licensing Department's report, the DBS statement and the DVLA's report
- The applicant's verbal representations
- The Driver and Vehicle Licensing Agency's guidelines
- The applicant's medical form

Specific consideration was given to the following matters:

Conviction 1: In September 1980, the applicant was found guilty of theft from a shop, contrary to the Theft Act 1968 s.1. The applicant was 15 years old when the offence took place and he received a fine of £25.

Conviction 2: In August 1983, the applicant was found guilty of attempted theft from dwellings contrary to the Theft Act 1968 s.9 (1)(a). The applicant was 18 years old when the offence took place and he received a probation order for two years.

Conviction 3: In March 1984, the applicant was found guilty of two cases of theft from a shop, contrary to the Theft Act 1968 s.1; Breaching the Probation Order - Powers of Criminal Courts Act 1973 s.6. The applicant was 19 years old when the offences took place and he was detained in a detention centre for 21 days.

Conviction 4: In October 1984, the applicant was found guilty of three cases of theft from a shop, contrary to the Theft Act 1968 s.1 together with the possession of a Class A Drug contrary to the Misuse of Drugs Act 1971 s5. (2). The applicant was 19 years old when the offence took place and he was detained in a youth detention centre for six months and forfeiture and disposal of the drugs.

Conviction 5: In November 1985, the applicant was found guilty of two cases of theft from a shop, contrary to the Theft Act 1968 s.1. The applicant was 20 years old when the offence took place and he received a probation order for two years with a condition to reside in a hostel for a year.

Paragraph 2.2 of the Council's Policy was considered, which states that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but he will be expected to have been free of any conviction for an appropriate period as stated in the Policy, and to show evidence that he is a fit and proper person to hold a licence. The onus was on the applicant to prove that he was a fit and proper person. Paragraph 2.4 states that when an applicant has a conviction(s) or there are other related matter(s) to be considered in connection with that, the Council cannot review the merits of the conviction or other matter.

Paragraph 4.5 was considered which states that the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 allows the Sub-committee to take into account all convictions recorded against an applicant, whether spent or otherwise, under the 1974 Act.

Paragraph 8.0 of the Policy, which deals with dishonesty offences, was considered together with paragraph 8.1 which states that a serious view shall be taken of any conviction involving dishonesty. Paragraph 8.2 states that an application would normally be refused where the applicant has a conviction for a listed offence, and was convicted less than three years prior to the date of the application. It was noted that the list of offences included theft, amongst other offences.

Paragraph 9.1 states that a serious view will be taken of any drugs-related offences with paragraph 9.4 stating that an application where the applicant has a single conviction concerning the possession of drugs would usually be refused unless a period of three years had elapsed.

Paragraph 16.1 of the Policy deals with repeat offences. Firstly, it must be ensured that the convictions satisfy the policy guidelines individually, but that they together create a history of repeat offending that indicates a lack of respect for the welfare and property of others. The Policy states that ten years must have elapsed since the most recent conviction.

The Sub-committee concluded that the period of time noted in the Policy where applications should be refused due to such offences had elapsed - the last conviction was issued 37 years ago (which was far beyond the period of 3 years), and therefore none of the assumptions to refuse the application survived, and therefore there were no grounds to refuse the application.

The 'pattern' of repeat offending was also considered under paragraph 16.1 that states that the application should be refused if a period of 10 years hasn't passed since the last conviction. Although it was found that there was an obvious pattern of dishonesty (mainly theft), there were 37 years since the last conviction and no subsequent convictions had been received.

The applicant's explanation for his behaviour in his teens was considered and the Sub-committee congratulated him on managing to transform his life.

The Sub-committee determined in favour of approving the application and that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence.

The Solicitor reported that the decision would be confirmed formally by letter to the applicant.

The meeting commenced at 10:00am and concluded at 10:30am